

IN RE: PETITION FOR ZONING VARIANCE
W/S Elk Road, 570' N of the
c/l of Middleborough Road
(204 Elk Road) 15th
Election District - 5th
Councilmanic District
Melvin L. Fillmore, et ux
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-202-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The petitioners herein request a variance to permit two existing accessory buildings (sheds) in the front yard in lieu of the required rear yard in accordance with Petitioner's Exhibit 1.

The petitioners appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 204 Elk Road, consists of .587 acres zoned D.R. 5.5 and is improved with a single family dwelling and swimming pool as depicted in Petitioner's Exhibit 1. Said property is located within the Chesapeake Bay Critical Areas near Hopkins Creek. Testimony indicated that Petitioners purchased the subject property, which is pie shaped with its widest point in the front, approximately 12 years ago. Petitioners testified that at the time of purchase, one shed already existed in the front yard. Sometime thereafter, Petitioners constructed a second shed adjacent to the first. When Petitioners filed for a building permit to construct the swimming pool in May, 1989, they were advised by the Zoning Office that the sheds were in violation of the zoning regulations and to file the instant Petition for Variance. Petitioners testified that due to the shape and size of the lot as well as the location of existing improvements thereon, there is no other suitable place to locate the sheds. Testimony and evidence presented indicated that the sheds are well-screened by existing mature trees and that to

require relocation of the sheds would result in hardship and practical difficulty to Petitioners. Further testimony indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property.

The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3rd day of December, 1989 that the Petition for Zoning Variance to permit two existing accessory buildings (sheds) in the

front yard in lieu of the required rear yard in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which conditions are precedent to the relief granted:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the petitioners would be required to bring the property into compliance with the zoning regulations.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated October 3, 1989, attached hereto and made a part hereof.

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 69
Fillmore Property
Chesapeake Bay Critical Area Findings

DATE: October 3, 1989

RECEIVED
OCT 18 1989

ZONING OFFICE

SITE LOCATION

The subject property is located at 204 Elk Road off Middleborough Road. The site is within the Chesapeake Bay Critical Area and is classified as a limited development area (LLA).

APPLICANT'S NAME: Mr. and Mrs. Melvin L. Fillmore

APPLICANT PROPOSAL:

The applicant has requested a variance from section 400.1 of the Baltimore County Zoning Regulations to permit 2 accessory buildings (sheds) in the front yard in lieu of the required rear yard.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

COMAR 14.15.10.01.0

Memo to Mr. J. Robert Haines
October 3, 1989
Page 2

REGULATIONS AND FINDINGS

1. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" (Baltimore County Code Sec. 22-213(a)).

Finding: This property is located approximately 300 feet from the tidal waters of Hopkins Creek. Therefore, the proposed development will not disturb the 100 foot buffer.

2. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination." (Baltimore County Code Sec. 22-98)

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

3. Regulation: "If no forest or developed woodland exists on a developed site these sites shall be planted to provide forest or developed woodland cover of at least 15% (COMAR 14.15.02.04 C.(5))."

Finding: The existing forested vegetation on this property covers at least 15% of the site. Any trees removed shall be replaced on a 1:1 basis.

4. Regulation: "The stormwater management system shall be designed so that:

- (1) Development will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher rate than would have resulted from a ten year frequency storm if the land had remained in its predevelopment state;
 - (2) Infiltration of water is maximized throughout the site, rather than directing flow to single discharge points; and
 - (3) Storm drain discharge points are decentralized to simulate the predevelopment hydrologic regime.
- (4) There is sufficient storage capacity to achieve water quality goals of COMAR 14.15 and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state" (Baltimore County Code, Section 22-217(h)).

Memo to Mr. J. Robert Haines
October 3, 1989
Page 3

Findings: In order to comply with the above regulation rooftop runoff shall be directed through downspouts and into Dutch drains or seepage pits (see attached information). This will encourage maximum infiltration of stormwater.

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above.

Upon compliance with Chesapeake Bay Critical Area Regulations, this project shall be approved.

Robert W. Sheesley
Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:ju
Attachment

cc: The Honorable Ronald B. Hickernell
The Honorable Norman R. Lauenstein
The Honorable Dale T. Volz

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 537-3353
J. Robert Haines
Zoning Commissioner

December 5, 1989

Mr. & Mrs. Melvin L. Fillmore
204 Elk Road
Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE
W/S Elk Road, 570' N of the c/l of Middleborough Road
(204 Elk Road)
15th Election District - 5th Councilmanic District
Melvin L. Fillmore, et ux - Petitioners
Case No. 90-202-A

Dear Mr. & Mrs. Fillmore:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on an appeal, please contact Ms. Charlotte Radcliffe at 837-3391.

Very truly yours,

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Chesapeake Bay Critical Areas Commission
Towson State Office Bldg., D-4, Annapolis, Md. 21404

DEPRM

People's Counsel

File

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

November 20, 1989

Mr. & Mrs. Melvin L. Fillmore
204 Elk Road
Baltimore, MD 21221

RE: Item No. 69, Case No. 90-202-A
Petitioner: Melvin L. Fillmore, et ux
Petition for Zoning Variance

Dear Mr. & Mrs. Fillmore:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development of the property that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commission with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

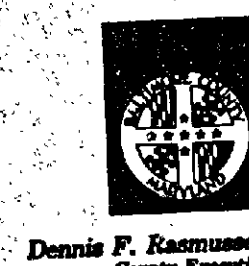
IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures

Baltimore County
Zoning Commission
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner



Your petition has been received and accepted for filing this
28th day of September, 1989.

J. Robert Haines
Zoning Commissioner

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

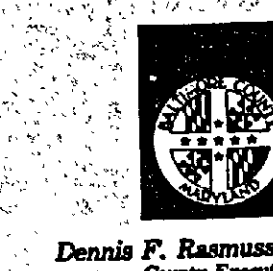
Petitioner: Melvin L. Fillmore, et ux
Petitioner's Attorney:

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 406
Townson, Maryland 21204
(301) 887-3554

RECEIVED
AUG 31 1989

ZONING OFFICE

August 25, 1989



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Townson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 285, 65, 66, 68, 70, 71, and 72.

Very truly yours,

Michael S. Flanagan
Traffic Engineer Associate II

MSE/LW



CERTIFICATE OF PUBLICATION

Office of

THE AVENUE NEWS

442 Eastern Blvd.
Baltimore, MD 21221

November 2, 1989

THIS IS TO CERTIFY, that the annexed advertisement of

Melvin L. Fillmore in the matter of
Petition for Zoning Variance for 204
Elk Rd. Case # 90-202-A, P.O. #0018424
Req. # M34288 91 lines @.55 or \$50.05

THE JEFFERSONIAN.

S. Zeke Nelson
Publisher

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the petition for zoning variance for 204 Elk Rd. Case # 90-202-A, P.O. #0018424, Req. # M34288 91 lines @.55 or \$50.05, on the following date:

Monday, November 2, 1989
10:00 A.M. to 2:00 P.M.
15th Election District - 5th Councilmanic District
Petitioner(s): Melvin L. Fillmore, et ux

Public Hearing, at the County Office Building, located at 111 W. Chesapeake Avenue in Townson, Maryland 21204.

Notice of Hearing: The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the petition for zoning variance for 204 Elk Rd. Case # 90-202-A, P.O. #0018424, Req. # M34288 91 lines @.55 or \$50.05, on the following date:

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Petitioner(s): Melvin L. Fillmore, et ux

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: November 2, 1989
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Zoning Petition No. 90-202-A
Melvin L. Fillmore, Item 69

The Petitioner requests a Variance to permit accessory buildings in the required rear yard.

In reference to this request, Staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK:JL:gg1
ZPV:RIQU

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE 11/7/89

Mr. & Mrs. Melvin L. Fillmore
204 Elk Road
Baltimore, Maryland 21221

Re: Petition for Zoning Variance
CASE NUMBER: 90-202-A
W/S of Elk Road, 570' N of c/l of Middleborough Road
204 Elk Road
15th Election District - 5th Councilmanic District
Petitioner(s): Melvin L. Fillmore, et ux
HEARING: TUESDAY, NOVEMBER 28, 1989 at 2:00 p.m.

Dear Mr. & Mrs. Fillmore:

Please be advised that \$120.36 is due for advertising and posting of the above captioned property.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353

Date

PUBLIC HEARING FEES

QTY

PRICE

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

October 17, 1989

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the petition for zoning variance for 204 Elk Rd. Case # 90-202-A, P.O. #0018424, Req. # M34288 91 lines @.55 or \$50.05, on the following date:

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10:00 A.M. to 2:00 P.M.
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Petitioner(s): Melvin L. Fillmore, et ux

Public Hearing, at the County Office Building, located at 111 W. Chesapeake Avenue in Townson, Maryland 21204.

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Public Hearing, at the County Office Building, located at 111 W. Chesapeake Avenue in Townson, Maryland 21204.

Baltimore County
Fire Department
800 York Road
Townson, Maryland 21204-2506
(301) 887-4500

Paul H. Rabinovich
Chief

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Townson, MD 21204

RE: Property Owner: MELVIN L. FILLMORE
Location: W/S OF ELK ROAD

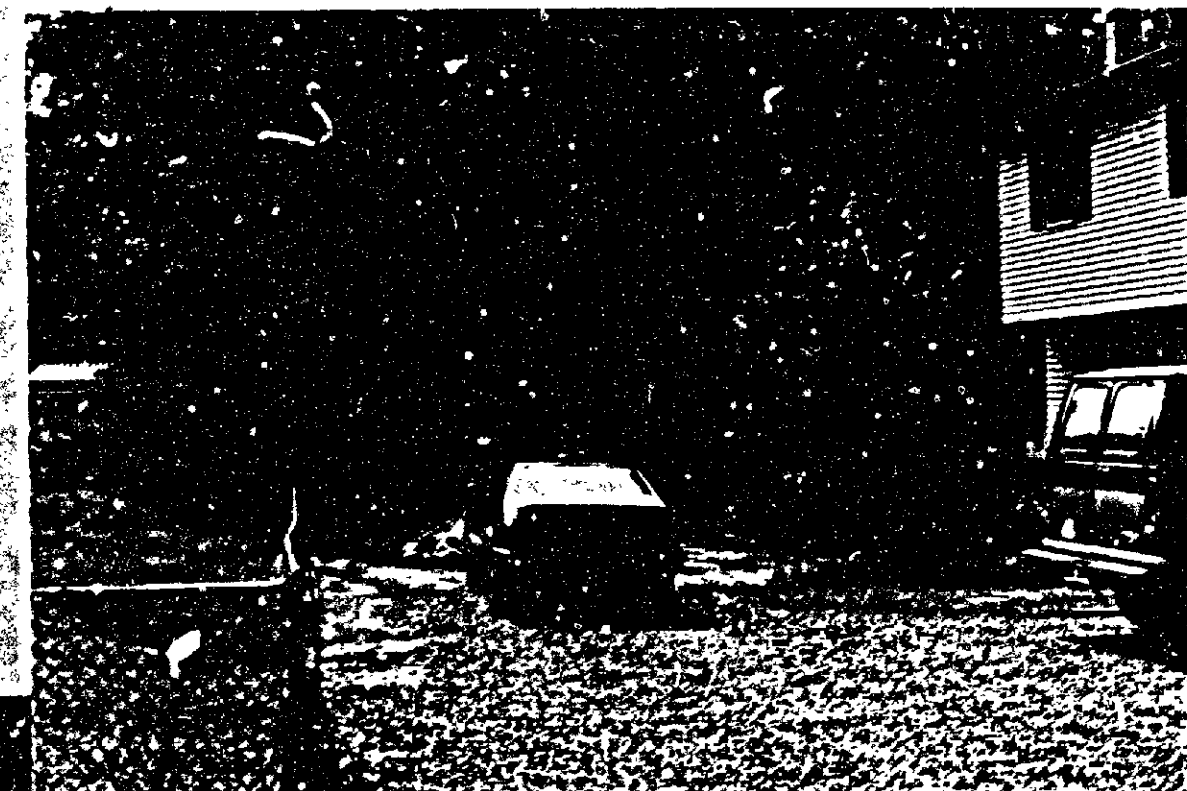
Item No.: 69 Zoning Agency: AUGUST 29, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division



CERTIFICATE OF PUBLICATION

TOWSON, MD. November 2, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 2, 1989.

THE JEFFERSONIAN.

S. Zeke Nelson
Publisher

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 1524 Date of Posting: 11/17/89

Posted for: Melvin L. Fillmore, et ux

Petitioner: Melvin L. Fillmore, et ux

Location of property: W/S of Elk Rd., 570' N of c/l of Middleborough Rd.

204 Elk Rd.

Location of Sign: Elk Rd. opposite E. end of c/l of Elk Rd., at left side of driveway (R/W) leading to property.

Remarks: M. Rabinovich

Posted by: M. Rabinovich Date of return: 11/17/89

Number of Signs: 1

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

May 3, 1989

#69 CRITICAL AREA



Mr. & Mrs. Melvin Fillmore
204 Elk Road
Baltimore, MD 21221

RE: Pool Permit Application #8-012327

Dear Mr. & Mrs. Fillmore:

During an on-site inspection (5/2/89) for your permit application, it was noted that your shed is not in compliance with Section 400 of the Baltimore County Zoning Regulations (enclosed). It is strongly recommended that the shed be moved to the rear yard or a variance be applied for.

Although we have approved your pool permit application, it was also noted that the pool was constructed prior to receiving your permit.

If you have further questions on this matter, I may be reached at 887-3391.

Very truly yours,

James E. Dyer
Zoning Supervisor

Catherine A. Milton
Planning & Zoning Associate II

CAN:scj

3Rigs
cc: Mr. & Mrs. Fillmore
File